

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2015-077-00763R

Parcel No. 120/01301-263-000

Gary Hills,

Appellant,

v.

Polk County Board of Review,

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 24, 2016. Gary Hills was self-represented. Assistant Polk County Attorney Christina Gonzalez represented the Polk County Board of Review.

Gary Hills is the owner of a residential one-and-a-half-story home located at 2536 E Leach Avenue, Des Moines. Built in 1996, it has 1882 square-feet of gross living area, and a full unfinished basement. It also has an attached two-car garage, a deck, and an open porch. The site is 0.239 acres. (Ex. A).

The property's January 1, 2015, assessment was \$195,600, allocated as \$30,700 to the land and \$164,900 to the improvements.

Hills' protest to the Board of Review claimed the property was assessed for more than the value authorized by law. Iowa Code section 441.37(1)(a)(1)(b).

The Board of Review denied the petition. Hills then appealed to PAAB, asserting the correct assessment should be \$185,000.

**General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

## **Overassessment Claim**

### **i. Applicable Law**

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). If PAAB determines Hills has established the grounds for his protest, then PAAB must make an independent

determination of the property's correct value based on all of the evidence. *Compiano v. Board of Review of Polk County*, 771 N.W.2d 392, 397 (citations omitted).

ii. Findings of Fact

Hills testified that he believes the desirability of the southeast side of Des Moines has been affected by several retail closures; as such, the nearly \$18,000 increase from the 2013 assessment to the 2015 assessment is not warranted.

Hills submitted a total of five sales that he believes support his claim. (Petition; Exs. C & 1). The following table summarizes the sales.

Address	Sale Price	Sale Date	Gross Living Area (GLA)	Basement Finish	SP/SF
Subject	N/A	N/A	1882	None	N/A
1 - 2617 Driftwood Ave	\$190,000	Dec-14	2046	None	\$92.86
2 - 2519 E Marion St	\$193,500	Jul-14	2002	900 LQ	\$96.65
3 - 2912 E Diehl Ave	\$184,000	Dec-14	1822	None	\$100.99
4 - 2500 E Leach Ave	\$209,000	Apr-14	1926	None	\$108.52
5 - 2512 E Leach Ave	\$174,000	Jun-15	1754	None	\$99.20

We note Sale 1 was recorded as a family transaction. We lack the information to determine whether an adjustment for this sales condition is necessary and thus we decline to rely on this sale in our analysis. (Ex. C).

The record indicates Hills' comparables were all built in the 1990's and have fairly similar grades (quality) ranging from 3+00 to 3+10. There are some differences in the gross living area (GLA), garage area, decks, and porches. Although we find them reasonably comparable, we note that Sales 1, 3, and 5 appear generally inferior. Moreover, we find Sale 2, which has 900 square-feet of living-quarter quality basement finish, superior to the subject. (Ex. C & G). For reasons discussed later, we decline to rely on Sale 4.

Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, testified for the Board of Review. She explained the Board of Review relied on six

adjusted sales of comparable properties supplied by the Assessor's Office. (Ex. E).  
The following table is a summary of the sales.

Address	Sale Price	Sale Date	Gross Living Area (GLA)	Basement Finish	SP/SF
Subject	N/A	N/A	1882	None	
A - 2519 E Marion St	\$193,500	Jul-14	2002	900 LQ	\$96.65
B - 2500 E Leach Ave	\$209,000	Apr-14	1926	None	\$108.52
C - 5438 SE 30th St	\$189,000	Dec-14	1717	None	\$110.08
D - 5422 SE 28th Ct	\$180,000	Oct-14	1917	None	\$93.90
E - 2500 E Leach Ave	\$186,000	Oct-13	1926	None	\$96.57
F - 5406 SE 28th St	\$186,000	Apr-14	1739	None	\$106.96

The sales were adjusted for differences and after adjustment, the range of value was between \$174,800 and \$218,000; the analysis was reconciled to a value of \$193,700. Rasmussen believes this analysis supports the subject property's current assessment, which is within 1% of the cost approach. The cost approach valued the property at \$195,600, and is the basis of the 2015 assessment. (Ex. B).

We note the April 2014 sale of the property at 2500 E Leach Avenue (Sale B) was also considered by Hills (Sale 4). The Board of Review also reported a prior sale of this property (Sale E) that occurred in October 2013; yet it did not provide any rationale for why this property sold for \$23,000 more in a six-month period. As a result, we give the sales involving 2500 E Leach Avenue no consideration.

iii. Analysis & Conclusions of Law

Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value under Iowa law. § 441.21(1)(b). However, "[s]ales prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales." *Id.*

We give no consideration to Sale 1 because it was a family sale, and we lack the information to determine whether this condition requires any adjustment. For reasons

already discussed, we also choose not to rely on the sales involving 2500 E Leach Avenue.

After eliminating the aforementioned sales, the following table summarizes the remaining sales in the record.

Address	Sale Price	Sale Date	Gross Living Area (GLA)	Basement Finish	SP/SF
Subject	N/A	N/A	1882	None	N/A
2/A - 2519 E Marion St	\$193,500	Jul-14	2002	900 LQ	\$96.65
3 - 2912 E Diehl Ave	\$184,000	Dec-14	1822	None	\$100.99
5 - 2512 E Leach Ave	\$174,000	Jun-15	1754	None	\$99.20
C - 5438 SE 30th St	\$189,000	Dec-14	1717	None	\$110.08
D - 5422 SE 28th Ct	\$180,000	Oct-14	1917	None	\$93.90
F - 5406 SE 28th St	\$186,000	Apr-14	1739	None	\$106.96

These sales indicate a range from \$174,000 to \$193,500. Sale 2/A is superior to the subject due to its larger GLA and finished basement area. Therefore, it sets the upper end of the range of value for the subject property. The remaining sales generally have inferior qualities compared to the subject, such as GLA, basement size, or garage size. We find these sales indicate the subject's assessment is excessive and its market value would be no more than \$193,500. Moreover, the Board of Review's own sales analysis determined a value of \$193,700 for the subject property.

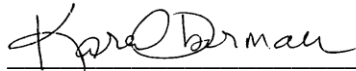
Based on a preponderance of the evidence in the record, we find the subject property's assessment is excessive and the property's correct assessment should be \$193,500.

### **Order**

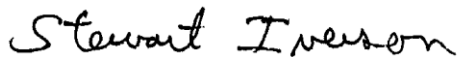
Having concluded that Hills demonstrated his property is over assessed, PAAB ORDERS that the Polk County Board of Review's action is modified to \$193,500.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of


PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Camille Valley, Board Member

Copies to:

Gary Hills by eFile

Christina Gonzalez by eFile

Polk County Auditor

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